THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 28088 of 2005

O r d e r:

By this writ petition, the petitioner seeks to direct the respondent-Corporation to pay interest @ 12% per annum on the gratuity amount of Rs.1,30,000/- from 30.06.2001 till 19.07.2004.

The petitioner retired from service of the respondent-Corporation on 30.06.2001. Subsequently, when the respondent-Corporation failed to pay gratuity amount to him, he filed writ petition in W.P. No. 19556 of 2002 seeking release of gratuity amount of Rs.1,30,000/- with interest at 12% p.a. This Court, by interim orders dated 10.12.2002 passed in W.P.M.P. No.24573 of 2002 in W.P. No. 19556 of 2002, directed the respondent-Corporation to pay the gratuity amount to the petitioner. Alleging non-compliance of the said order, the petitioner filed Contempt Case No. 1027 of 2003. Since the respondent-Corporation paid the entire gratuity amount to the petitioner, the writ petition as well as the contempt case by order dated 27.07.2004 were closed, by observing that with regard to claim of the petitioner for interest on the gratuity amount for the delayed period, is concerned, he should make an application to the respondent-Corporation, and on such application, the respondent-Corporation may consider the interest aspect and dispose of the same in accordance with law by passing appropriate orders. The case of the petitioner is that pursuant to the said orders of this Court, he made a representation to the respondent-Corporation seeking payment of interest at 12% p.a. on the delayed payment of gratuity. But, the respondent-Corporation, by reason of the order impugned in this writ petition, rejected his claim. Hence, he filed the present writ petition.

Learned counsel for the petitioner contends that the respondent-Corporation, without any notice or without giving any reasons, withheld the gratuity amount for more than three years, hence, the petitioner is entitled to interest on the delayed payment of gratuity. He further submits that though this Court directed the respondent-Corporation to consider the interest aspect, the respondent-Corporation, without properly considering the said aspect, simply rejected the claim of the petitioner, by way of impugned order. He, thus, prays to set aside the impugned order and allow the writ petition.

The respondent-Corporation filed counter affidavit. Learned Standing Counsel for the respondent-Corporation reiterating the counter averments submitted that pursuant to the directions of this Court, the respondent-Corporation considered the application filed by the petitioner for grant of interest on the gratuity amount and rejected the same for the reason that withholding of the gratuity amount was not purposeful but to make good the loss caused by the petitioner to the Corporation, and no interference is called for therewith.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent-Corporation and perused the material on record.

The main contention advanced by the learned counsel for the petitioner is that though this Court directed to consider the interest on the gratuity amount for the delayed period, the respondent-Corporation, without properly considering the same, rejected the claim of the petitioner by way of impugned order. Whereas it is the contention of the learned Standing Counsel for the respondent-Corporation is that the respondent-Corporation, after considering the fact that withholding of gratuity amount of the petitioner was not purposeful but to make good the loss caused to the Corporation by him, rejected the claim of the petitioner, and no interference is called

for therewith.

As per the practices and instructions of the respondent-Corporation, the petitioner, being a Godown Clerk, is responsible for getting regularized the deficits noticed, by submitting necessary proposals. But, a perusal of the impugned order would indicate that the petitioner failed to discharge his obligation to account for the deficits in stocks during his tenure, and that he neglected to settle the dues to the respondent-Corporation while he was in service, and that he had not made any attempts to get the deficits finalized. As the petitioner, who was duty bound to get the deficits noticed regularized, the respondent-Corporation while retiring him, withheld the gratuity amount of Rs.1,30,479/- payable to him, and consequent upon finalization of deficits, which worked out to
Rs. 54,675.02 ps., deducted the said amount from out of the total amount of gratuity payable to the paid, and paid the balance amount of Rs.75,803.98 ps. However, in pursuance of the orders of this Court, the withheld amount of Rs.54,675-02 ps. was also paid to the petitioner vide Demand Draft dated 19.07.2004. The impugned order further discloses that the respondent-Corporation withheld the amount only to make good the loss caused by the petitioner to the Corporation.

Inasmuch as the gratuity amount of the petitioner was withheld by the respondent-Corporation for want of finalization of deficits caused by the petitioner to the Corporation, and the balance amount of gratuity having been paid by the respondent-Corporation in pursuance of the orders of this Court, and having regard to the fact that the petitioner is said to be still liable and responsible for clearing the deficits noticed by him during his tenure, no exception can be taken to the action of the respondent-Corporation in not paying interest to the petitioner on the withheld and delayed payment of gratuity amount.

The writ petition is devoid of merit and the same is accordingly dismissed. No costs.

N.V. RAMANA, J.

Date: 8th September, 2006
KSR